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8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA

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11 Adrian Johnson,

12 Plaintiff,

13 v.

14 Jeremy Pickett, et al.,

15 Defendants.
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Case No. 2:20-cv-00436-KJD-BNW

**ORDER AND REPORT AND
RECOMMENDATION**

17 Before the Court is Plaintiff's renewed *In Forma Pauperis* application (ECF No. 5), his
18 complaint (ECF No. 1), and a motion requesting the screening of the complaint (ECF No. 6).

19 **In Forma Pauperis Application**

20 Plaintiff demonstrated an inability to prepay fees or costs or give security for them.
21 Accordingly, the court will grant his request to proceed *in forma pauperis*. The court now screens
22 Plaintiff's complaint.

23 **Complaint and Request to Screen**

24 Federal courts must conduct a preliminary screening in any case in which a prisoner seeks
25 redress from a governmental entity or officer or employee of a governmental entity. *See* 28
26 U.S.C. § 1915A(a). In its review, the court must identify any cognizable claims and dismiss any
27 claims that are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek
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1 monetary relief from a defendant who is immune from such relief. *See* 28 U.S.C. § 1915A(b)(1),
2 (2).

3 In the process of screening this complaint, the Court noticed that on page six of his
4 complaint, Plaintiff indicates that there is another case currently pending in this district (19-cv-
5 2224-RFB-NJK) arising out of the same or similar facts alleged in the instant complaint. Indeed,
6 the complaint filed in case No. 19-cv-2224-RFB-NJK is based on the same facts, and alleges
7 many of the same counts, as those underlying the instant complaint.¹ Because the Court will
8 screen that complaint in due course, the Court recommends that the complaint in this case be
9 dismissed with prejudice. *See Alltrade, Inc. v. Uniweld Products, Inc.*, 946 F.2d 622, 623 (9th
10 Cir.1991) (when a complaint involving the same parties and issues has already been filed in
11 another federal district court, the court has discretion to abate or dismiss the second action).² As a
12 result, this Court recommend that the complaint be dismissed with prejudice and denies the
13 request to screen as moot.

14 **IT IS THEREFORE ORDERED** that Plaintiff's in forma pauperis application (ECF No.
15 5) is granted.

16 **IT IS THEREFORE RECOMMENDED** that Plaintiff's Complaint (ECF No. 1) be
17 dismissed with prejudice and that the request to screen the complaint (ECF No. 6) be denied as
18 moot.

19 NOTICE


20 This report and recommendation is submitted to the United States district judge assigned
21 to this case under 28 U.S.C. § 636(b)(1). A party who objects to this report and recommendation
22 may file a written objection supported by points and authorities within fourteen days of being
23 served with this report and recommendation. Local Rule IB 3-2(a). Failure to file a timely
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25 ¹ In fact, Plaintiff has a pending motion to stay in case No. 19-cv-2224-RFB-NJK
26 recognizing that his complaint alleges facts tied to an on-going criminal case which has not yet
27 been adjudicated.

28 ² While that case relies on principles of comity, the underlying rationale of trying to avoid
inconsistent holdings applies with equal force to duplicate cases filed in the District of Nevada.

1 objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951 F.2d 1153,
2 1157 (9th Cir. 1991).

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4 DATED: August 31, 2020

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7 BREND A WEKSLER
8 UNITED STATES MAGISTRATE JUDGE
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